

IN THE DISTRICT COURT OF THE VIRGIN ISLAND  
DIVISION OF ST. CROIX

ATLANTIC BASIN REFINING, INC.

PLAINTIFF,

VS.

CASE NO.: 1:15-cv-00071

ARCLIGHT CAPITAL PARTNERS, LLC  
AND JP ENERGY PARTNERS, LP,

DEFENDANTS.

ABR'S REPLY TO DEFENDANTS' OPPOSITION TO ABR'S SUBMISSION  
RE THE COURT'S DECEMBER 5, 2023 ORDER REGARDING  
CLARIFICATION OF PLAINTIFF'S DAMAGE CLAIM

Atlantic Basin Refining, Inc. ("ABR") and Defendants essentially differ upon whether a plaintiff can recover *damages* linked to a bankrupt's assets under an NDA claim after this Court has already clarified that its prior rulings were limited to the linkage between the *liability theory's* relationship with the asset. The Court explained at its November 27, 2023 hearing that it had not ruled out *damages* linked to the asset.

Defendants repeatedly ignore the distinction this Court drew at the November 27, 2023 hearing between:

- liability theories linked to the asset and
- damages linked to the asset.

If this Court *now* determines that damages linked to the asset are also barred when the liability theory is not linked to the asset, then the Defendants are correct

that—under such a ruling—ABR’s remaining claims should be dismissed. On the other hand, if the Court *now* rules that using the assets as a measure of damages under a liability theory that the Court has already determined is not linked to the assets, then ABR’s current claims should proceed to trial.

Respectfully submitted,

Atlantic Basin Refining, Inc.

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